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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,911	02/27/2001	Walid N Aboul-Hosn	9261.16626-P	3653

7590

05/22/2002

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/763,911

Applicant(s)

ABOUL-HOSN ET AL. *CH*

Examiner

Roz Ghafoorian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Drawings*

This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. Claim 1 recites the limitation "the circulatory system " in line 9, "a patient" in line 9, and "the vascular system" in line 14. There is insufficient antecedent basis for this limitation in the claim.
  - b. Claim 17 recites the limitation "the vascular system" in line 24. There is insufficient antecedent basis for this limitation in the claim.
  - c. Claim 24 recites the limitation "the auxiliary lumen" in line 29. There is insufficient antecedent basis for this limitation in the claim.
  - d. Claim 27 recites the limitation "the pump" in line 11. There is insufficient antecedent basis for this limitation in the claim.

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- e. Claim 36 recites the limitation "the circulatory system" in line 25, "a patient" in line 26, and "the steps" in line 30. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 6293920 to Sweezer et al.

Sweezer discloses a catheter system and method for providing cardiopulmonary bypass pump support during heart surgery. Sweezer's system has many components one of which is the subclavian catheter. This device consists of two pathways that are slidably coupled to one another in a coaxial arrangement. The two pathways are dimensioned to extend, in use, into the respective first and second predetermined location through a single incision from the vascular system of the patient. The subclavian catheter consists of a guide wire and a pressure sensor, as well as a bend for directing the flow path. Referring to fig 1, the subclavian catheter is capable of pumping oxygenated blood in to the patient via tube 21 to one location and removes

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blood via line 19 from a different location. Both paths 21 and 19 are introduced thorough a single incision.

**Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S Patent No. 5536242 to Willard et al, U.S Patent 5957839 to Kruse et al, and U.S Patent No.5971973 to Peters

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

RG  
May 15, 2002